IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 10TH SEPTEMBER 2007 / 19TH BHADRA 1929

Bail Appl..No. 5457 of 2007()

CC.36/2006 of J.M.F.C.-I,PALAKKAD

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PETITIONER/ACCUSED NO.1

MANOJ, S/O.BHASKARAN, AGED 32 YEARS,
NEDUNGODE, CHIMBAKADU, KUTHANNUR,
PALAKKAD.

BY ADV. SRI.RAJESH SIVARAMANKUTTY

RESPONDENTS: COMPLAINANT

STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COUR OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 10/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 5457 of 2007

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Dated this the 10th day of September, 2007

O R D E R

The petitioner faces indictment in a prosecution for offences punishable, inter alia, under Section 354 I.P.C. All offences are bailable, it is submitted. The petitioner had entered appearance before the learned Magistrate. He was enlarged on bail. But subsequently he was not in a position to appear before the learned Magistrate. Consequent to the non-appearance of the petitioner, the learned Magistrate has issued a non-bailable warrant against the petitioner.

2. According to the petitioner he is absolutely innocent. His failure/omission to appear earlier was not wilful, but was due to reasons beyond his control. He is willing to surrender before the learned Magistrate and seek bail. He shall co-operate with the Court for the expeditious disposal of the case. But he apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. In these

circumstances it is prayed that appropriate directions may be issued to the learned Magistrate to release the petitioner on bail on the date of surrender itself.

3. It is certainly for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioner when he surrenders before the learned Magistrate, on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued by this Court in the decision in **Alice George** v. **Dy.S.P. of Police** (2003 (1) KLT 339).

4. This application is accordingly dismissed. I may however hasten to observe that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass orders on

merits, in accordance with law and expeditiously - on the date of surrender itself.

(R. BASANT)
Judge

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